

Case Summary

William Allison appeals the sentence imposed after the revocation of his probation. We affirm.

Issue

Allison raises one issue, which we restate as whether the trial court abused its discretion when it ordered him to serve one year of his two year sentence following the revocation of his probation.

Facts

On May 13, 2008, Allison was charged with Class A misdemeanor resisting law enforcement, Class A misdemeanor possession of marijuana, and Class A misdemeanor possession of paraphernalia. On May 20, 2008, Allison pled guilty as charged. On May 29, 2008, Allison was sentenced to one year on each count, with the resisting law enforcement sentence and the possession of marijuana sentence to be served consecutively, for a total sentence of two years. All but thirty days, which Allison had already served, was suspended, and Allison was placed on probation.

On June 13, 2008 Allison tested positive for cocaine and marijuana. On June 17, 2008, the State alleged that Allison violated his probation. On July 18, 2008, Allison admitted to the probation violation, and his probation was revoked. The trial court ordered him to serve one year of his sentence and extended his probation for another year. Allison now appeals.

Analysis

Allison claims that the trial court improperly ordered him to serve one year of his sentence after it revoked his probation. “Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled.” Prewitt v. State, 878 N.E.2d 184, 188 (Ind. 2007). “The trial court determines the conditions of probation and may revoke probation if the conditions are violated.” Id. (citing Indiana Code Section 35-38-2-3). A trial court’s sentencing decisions for probation violations are reviewable using the abuse of discretion standard. Id. “An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances.” Id. Upon the revocation of probation, the trial court may: (1) continue the person on probation, with or without modifying or enlarging the conditions; (2) extend the person’s probationary period for not more than one year beyond the original probationary period; and (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing. Ind. Code § 35-38-2-3(g).

Allison argues that the trial court abused its discretion by ordering him to serve a year of his sentence because he admitted to violating his probation, the violation did not involve a victim, and he had not had time to seek counseling for his drug addiction. These arguments are unavailing. Approximately two weeks after he was sentenced on drug-related convictions, Allison violated his probation by using drugs. We cannot say that ordering Allison to serve half of his sentence after he tested positive for cocaine and marijuana was an abuse of discretion.

Conclusion

The trial court did not abuse its discretion in ordering Allison to serve one year of his sentence. We affirm.

Affirmed.

BAILEY, J., and MATHIAS, J., concur.